



**BOARD OF APPEALS**  
Jesse Geller, Chairman  
Jonathan Book  
Christopher Hussey

# *Town of Brookline*

## *Massachusetts*

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043  
Patrick J. Ward, Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2014-0062  
6 ALTON COURT REALTY TRUST

Petitioners, Joseph and Sadako Anderson, applied to the Building Commissioner for permission to finish 1,411 s.f. of floor area in the basement. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the properties affected were those shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed October 30, 2014 at 7:30 p.m., in the Selectmen's Hearing Room as the date, time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, to their attorney (if any) of record, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published on October 9, 2014 and October 16, 2014 in the Brookline Tab, a newspaper published in Brookline. A copy of said notice is as follows:

### **NOTICE OF HEARING**

Pursuant to M.G.L., C. 40A, the Board of Appeals will conduct a public hearing at Town Hall, 333 Washington Street, Brookline, on a proposal at:

**6 ALTON CT – EXTEND LIVING SPACE INTO THE BASEMENT in an M-1.0 Apartment House, residential district, on October 30, 2014, at 7:30 PM in the 6<sup>th</sup> Floor Selectmen’s Hearing Room (Petitioner: ANDERSON SADAKO; Owner: LI JAMES C & HELEN Y H).**

**Precinct 7**

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law:

- 1. Section 5.20: Floor Area Ratio**
- 2. Section 8.02.2: Extension and Alteration**

*Hearings once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Office of the Town Clerk at 617-730-2007 or check the meeting calendar at: [www.brooklinema.gov](http://www.brooklinema.gov).*

*The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to **Robert Sneirson, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at [rsneirson@brooklinema.gov](mailto:rsneirson@brooklinema.gov).***

**Jesse Geller, Co-Chair  
Jonathan Book, Co-Chair  
Christopher Hussey**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman, Mark G. Zuroff, and Board Members Christopher Hussey and Jonathan Book. The case was presented by the attorney for the Petitioners, Robert L. Allen, Jr., Law Office of Robert L. Allen, Jr. LLP, 300 Washington Street, Second Floor, Brookline, Massachusetts 02445. Also in attendance were the Petitioners, Joseph and Sadako Anderson, and the architect Lisa Hoang.

Chairman Mark Zuroff called the hearing to order at 7:30 p.m. Attorney Allen stated that the Petitioners propose to finish 1,411 s.f. of floor area in the basement

Attorney Allen presented to the Board a background of the Petitioners and the property, stating the following: 6 Alton Court was built in 1920 in the M-1.0 District. Attorney Allen stated that the Petitioners purchased the three-family home in 1977 and since that time have lived on the third floor. Attorney Allen stated that due to the number of steps to the third floor, the Petitioners’ physician

recommended the Petitioners move to the first floor, which requires fewer steps. Attorney Allen stated that the Petitioners plan to share the first floor with their son-in-law as he undergoes medical treatment. Attorney Allen stated that the finished floor area in the basement will permit the Petitioners to downsize and improve their quality of life.

Attorney Allen stated that the Planning Board voted unanimously in support of **Section 5.20** of the Zoning By-Law to increase the floor area from 5,973s.f. to 7,384s.f. in the basement. Attorney Allen stated that the basement will include a family room with a washer and dryer, a small library, full bathroom, and common room. Attorney Allen stated that there will be approximately 363s.f. of unfinished storage space. Attorney Allen stated that under **Section 5.22.3.b.2** of the Zoning By-Law, the Board of Appeals may grant a special permit to increase the floor area if it is less than or equal to 20% of the permitted gross floor area. Attorney Allen stated that the Petitioners request relief to increase the floor area ratio to 120%, which is the maximum gross floor area allowed by special permit in the M-1.0 District for this property.

Finally, Attorney Allen discussed relief under **Section 8.02.2** of the Zoning By-Law where a special permit is required under **Section 9.05** of the Zoning By-Law to alter and extend a non-conforming structure. As for **Section 9.05**, (1) the specific site is an appropriate location where the use will remain a three-family and will maximize the interior living space without affecting the streetscape; (2) there will be no adverse effect on the neighborhood where the increase in floor area will improve the Petitioners' access to the ground floor and is contained within the building's footprint; (3) no nuisance or serious hazard to vehicles or pedestrians exists where the additional floor area will not create another unit or need for parking relief; (4) adequate and appropriate facilities will be provided for the proposed use and (5) development will not have a significant adverse effect on the supply on housing available for low and moderate income people.

Zoning Board of Appeals Member Christopher Hussey stated that this is a unique parcel because one property owner has exclusive rights to the alleyway behind this property. Board Member Hussey inquired about the site plan. Attorney Allen stated that the Planning Board waived the requirements for a site plan and building elevations because the increase in floor area existed entirely within the footprint of the building. Attorney Allen stated that the floor area calculations are based on the information provided by the Town of Brookline Assessor's Department.

Zoning Board of Appeals Chairman Zuroff asked if there was anyone present who wished to speak in favor of this application. No one spoke in favor of this application.

Zoning Board of Appeals Chairman Zuroff asked if there was anyone present who wished to speak in opposition to this application. No one spoke in opposition to this application.

Timothy Richard, Planner for the Town of Brookline, delivered the findings of the Planning Board:

**FINDINGS:**

**1. Section 5.20 – Floor Area Ratio**

<b>Floor Area</b>	<b>Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Finding</b>
<b>Floor Area Ratio (% of allowed)</b>	1 (100%)	.97 (97%)	1.2 (120%)	Special Permit*
<b>Floor Area (s.f.)</b>	6,153	5,973	7,384	

\* Under **Section 5.22.3.b.2**, the Board of Appeals may grant a special permit for an increase in floor area that is less than or equal to 20%.

**2. Section 8.02.2 – Alteration or Extension**

A special permit is required to alter a pre-existing non-conforming structure or use.

Mr. Richard stated that the Planning Board is supportive of this proposal to finish the basement and create more living space within the dwelling. Mr. Richard stated that the expansion into the basement will not affect the number of units in the structure, nor the number of parking spaces required

and there will be no exterior changes. Mr. Richard stated that the Planning Board does not anticipate a negative impact to the neighborhood. Mr. Richard stated that therefore, the Planning Board recommends approval of the plans by The Architects Forum, Inc., dated 8/19/14, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final floor plans, subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chairman then called upon Michael Yanovitch, Head of the Building Department, to deliver the comments of the Building Department. Chief Building Inspector Michael Yanovitch, stated that the Building Department had no objections to the relief sought under this application. Mr. Yanovitch stated that if the Board of Appeals finds that the Petitioners meet the standard for a special permit under **Section 9.05** of the Zoning By-Law, the Building Department will ensure compliance with the Zoning Board of Appeals decision.

In deliberation, Zoning Board of Appeals Member Jonathan Book stated that he was in support of the relief requested. Zoning Board of Appeals Member Christopher Hussey concurred. Zoning Board of Appeals Chairman Mark Zuroff stated that the Board of Appeals acknowledges that the Petitioners based their floor area calculations on the Assessor's database which may not be 100% accurate.

The Board then determined, by unanimous vote that the requirements for a special permit under **Sections 5.20; 5.22.3.b.2; and Section 8.02.2** of the Zoning By-Law were met. The Board made the following specific findings pursuant to said **Section 9.05** of the Zoning By-Law:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.

d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

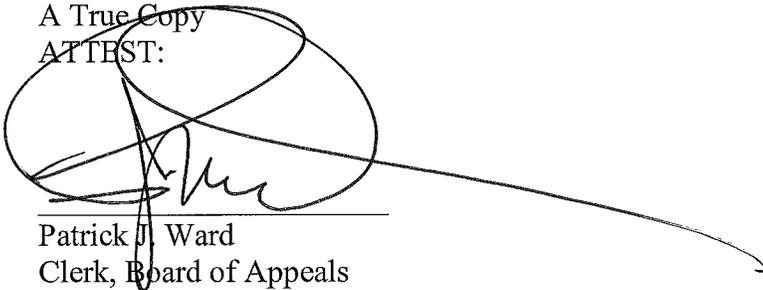
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Unanimous Decision of  
The Board of Appeals

Filing Date: 11/12/14

  
Mark G. Zuroff, Chairman

A True Copy  
ATTEST:

  
Patrick J. Ward  
Clerk, Board of Appeals

RECEIVED  
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TOWN CLERK  
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